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SANTA ANA

BY _____

Attorneys for Defendants
 ETHICON, INC. and JOHNSON & JOHNSON

**IN THE UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION**

RICHARD McLAUGHLIN and EVE
 McLAUGHLIN,

Plaintiffs,

v.

JOHNSON & JOHNSON, a New Jersey
 Corporation; ETHICON, INC., a New
 Jersey Corporation; DENISE JOSEPH-
 BROWN, M.D.; and DOES 1-40,
 inclusive,

Defendants.

Case No. SACV14-00259 CJC (ANx)

[Removal from Superior Court of
 California, Orange County Case No. 30-
 2013-00693525]

**NOTICE OF REMOVAL UNDER 28
 U.S.C. § 1441(B) (DIVERSITY) OF
 DEFENDANTS ETHICON, INC. AND
 JOHNSON & JOHNSON**

State Action Filed: December 17, 2013

[Filed concurrently with Declaration of
 Joshua J. Wes and Certification as to
 Interested Parties]

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(B) (DIVERSITY)

TO THE CLERK OF THE CENTRAL DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that Defendants Ethicon, Inc. and Johnson & Johnson (“Removing Defendants”), by and through undersigned counsel, hereby remove this action from the Superior Court of the State of California, County of Orange, to the United States District Court for the Central District of California pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. The United States District Court for the Central District of California has original subject matter jurisdiction of this civil action pursuant to 28 U.S.C. § 1332(a) because there is complete diversity among all properly joined and served parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of removal, Removing Defendants further state:

1. On or about December 17, 2013, Plaintiffs Richard McLaughlin and Eve McLaughlin (“Plaintiffs”) filed a Complaint styled *McLaughlin et al. v. Johnson & Johnson et al.* in the Superior Court of the State of California, County of Orange, Case No. 30-2013-00693525. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings, and orders served upon and by Removing Defendants, including the Summons, Complaint, and Answers to Complaint, are attached as Exhibit A to the Declaration of Joshua J. Wes in Support of Removal (“Wes Decl.”), filed concurrently herewith. Against Removing Defendants, Plaintiffs assert claims for negligence; strict liability – design defect; strict liability – manufacturing defect; strict liability – failure to warn; breach of express warranty; breach of implied warranty; loss of consortium; and punitive damages. (Compl. ¶¶ 39-85.) Against Defendant Denise Joseph-Brown, M.D., Plaintiffs assert a claim for professional medical negligence. (Compl. ¶¶ 86-93.)

2. Defendant Denise Joseph-Brown, M.D., is, upon information and belief, a citizen of the State of California. However, her presence does not defeat diversity of citizenship. She is fraudulently joined because the claims against her are time-barred based on the allegations of the complaint. *See Ritchey v. Upjohn Drug Co.*, 139 F.3d 1313, 1320 (9th Cir. 1998).

I. REMOVAL IS PROPER BECAUSE THIS COURT HAS ORIGINAL SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. 1332(A).

3. This Court has diversity jurisdiction pursuant to 28 U.S.C. §1332(a) because this is a civil action between citizens of different states in which the amount in controversy exceeds \$75,000, exclusive of interest and costs.

A. The Amount in Controversy Requirement Is Satisfied.

4. Pursuant to 28 U.S.C. § 1446(c)(2)(B), removal is proper if the court finds, by a preponderance of the evidence, that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.¹

5. It is facially evident from the Complaint that as to each Plaintiff, the amount in controversy exceeds \$75,000.00. *See Singer v. State Farm Mut. Auto. Ins. Co.*, 116 F.3d 373 (9th Cir. 1997). A removing defendant need only show that the amount in controversy “more likely than not” exceeds the jurisdictional minimum of \$75,000.00. *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996). When the amount in controversy is not specified in the complaint, the court may consider the facts alleged in the complaint as well as in the notice of removal. *See Simmons v. PCR Tech.*, 209 F. Supp. 2d 1029, 1031 (N.D. Cal. 2002).

6. Plaintiffs have alleged that as a result of his hernia mesh implant on December 30, 2011, Plaintiff Richard McLaughlin has “been forced to undergo extensive medical treatment, including but not limited to, operations to locate and remove mesh, operations to attempt to repair hernias and/or recurrent hernias, tissue [] and nerve damage, the use of pain control and other medications, infections and neuro stimulators.”

¹ The preponderance of the evidence standard was announced in the Federal Courts Jurisdiction and Venue Clarification Act of 2011, Pub. L. No. 112-63, 125 Stat. 758. According to the House Report accompanying the bill, “circuits have adopted differing standards governing the burden of showing that the amount in controversy is satisfied. The ‘sum claimed’ and ‘legal certainty’ standards that govern the amount in controversy requirement when a plaintiff originally files in Federal court have not translated well to removal, where the plaintiff often may not have been permitted to assert in state court a sum claimed or, if asserted, may not be bound by it.” H.R. Rep. No. 112-10, at 15 (2011). Accordingly, “the defendants do not need to prove to a legal certainty that the amount in controversy requirement has been met. Rather, defendants may simply allege or assert that the jurisdictional threshold has been met.” *Id.* at 16.

(Compl. ¶ 31). He alleges to have undergone a removal surgery on or about June 11, 2013. *Id.* In addition, he alleges “significant mental and physical pain and suffering, has sustained permanent injury, has undergone medical treatment and corrective surgery and hospitalization, has suffered financial and/or economic loss, including, but not limited to, obligations for medical services and expenses, lost income, and other damages.” (Compl. ¶ 38). Plaintiffs request compensatory damages “for past, present, and future damages, including, but not limited to, pain and suffering for severe and permanent personal injuries . . . and medical care costs” as well as other economic and noneconomic damages. (Compl., p. 22).

7. It is plain based on these allegations that the amount in controversy exceeds the \$75,000 jurisdictional threshold. *See, e.g., In re Rezulin Prods. Liab. Litig.*, 133 F. Supp. 2d 272, 296 (S.D.N.Y. 2001) (finding that a complaint alleging various injuries from taking a prescription drug “obviously asserts a claim exceeding \$75,000”). *See, e.g., McPhail v. Deere Co.*, 529 F.3d 947, 955 (10th Cir. 2008) (citing *Luckett v. Delta Airlines, Inc.*, 171 F.3d 295, 298 (5th Cir. 1999) (amount in controversy established by “alleged damages for property, travel expenses, and emergency ambulance trip, a six day stay in the hospital, pain and suffering, humiliation and her temporary inability to do housework.”)).

8. In addition, Plaintiffs seek punitive damages. (Compl. ¶ 74-85.) “It is well established that punitive damages are part of the amount in controversy in a civil action.” *Gibson v. Chrysler Corp.*, 261 F.3d 927, 945 (9th Cir. 2001).

9. Other cases brought by plaintiffs alleging similar severe pain, infection, and corrective surgeries have resulted in verdicts in excess of \$75,000.00, exclusive of interest and costs. (Wes Decl. ¶ 4, Exhibits B and C.) Given the similarity between the injuries alleged in other cases and the injuries alleged by Plaintiffs here, and based on defense counsel’s experience defending products liability actions, it is facially evident from the Complaint that Plaintiffs have placed in excess of \$75,000.00 in controversy, exclusive of interest and costs. (*Id.*)

10. Thus, on the face of Complaint, the amount in controversy requirement is satisfied.

B. Complete Diversity of Citizenship Exists.

11. For purposes of determining its citizenship under 28 U.S.C. § 1332(c)(1), Defendant Johnson & Johnson is a citizen of the State of New Jersey because it is incorporated in the State of New Jersey and has its principal place of business in New Brunswick, New Jersey. (Compl. ¶ 2; Wes Decl. ¶ 5).

12. For purposes of determining its citizenship under 28 U.S.C. § 1332(c)(1), Defendant Ethicon, Inc. is a citizen of the State of New Jersey because it is incorporated in the State of New Jersey and has its principal place of business in Somerville, New Jersey. (Compl. ¶ 3; Wes Decl. ¶ 6).

13. The citizenship of the John Doe defendants shall not be considered for purposes of determining diversity jurisdiction, as these are fictitious defendants. See 28 U.S.C. § 1441(b) (“[i]n determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.”).

14. The citizenship of Defendant Denise Joseph-Brown, M.D. (“Dr. Joseph-Brown”) should be disregarded because, as explained below, she is fraudulently joined in this action.

C. Dr. Joseph-Brown Does Not Defeat Diversity Jurisdiction Because She Is Fraudulently Joined.

15. Dr. Joseph-Brown is improperly joined in this action because the claim against her is time-barred.

16. Joinder is fraudulent “[i]f the plaintiff fails to state a cause of action against a resident defendant, and the failure is obvious according to the settled rules of the state.” *Hunter v. Philip Morris USA*, 582 F.3d 1039, 1043 (9th Cir. 2009) (citations and internal quotation marks omitted) (alteration in original). As the Ninth Circuit has held, a co-

1 defendant is fraudulently joined where the claims against it are time-barred. *Ritchey v.*
 2 *Upjohn Drug Co.*, 139 F.3d 1313, 1320 (9th Cir. 1998).

3 17. Plaintiffs' claims against Dr. Joseph-Brown are governed by Cal. Code Civ.
 4 Proc. § 340.5. That statute provides: "In an action for injury or death against a health
 5 care provider based upon such person's alleged professional negligence, the time for the
 6 commencement of action shall be three years after the date of injury or one year after the
 7 plaintiff discovers, or through the use of reasonable diligence should have discovered, the
 8 injury, whichever occurs first." *Id.*

9 18. In their Complaint, Plaintiffs allege that Mr. McLaughlin was implanted
 10 with hernia mesh on December 30, 2011. (Compl. ¶ 88). "Subsequent to the
 11 implantation of the Product, [he] developed groin pain, back pain, neuropathy, and
 12 dysfunction of his lower extremities, the cause of which was not disclosed to him." *Id.*
 13 However, Plaintiffs specifically allege that on September 17, 2012, Mr. McLaughlin
 14 "was informed by Scott Martin, M.D., that the cause of his injury was that defendant,
 15 DENISE JOSEPH-BROWN, M.D., had caused the injury by damaging a nerve with the
 16 instrumentation used during the procedure." (Compl. ¶ 89).

17 19. Accordingly, by the Plaintiffs' own judicial admission, the injury was
 18 discovered on September 17, 2012. Thus, pursuant to Cal. Code Civ. Proc. § 340.5,
 19 Plaintiffs' Complaint must have been filed by September 17, 2013.

20 20. Under Code of Civil Procedure section 364, a plaintiff must serve a Notice
 21 of Intent to Sue at least 90 days prior to commencing an action against a healthcare
 22 provider for professional negligence. Cal. Code Civ. Proc. § 364(a). That section
 23 provides, "[i]f the notice is served within 90 days of the expiration of the applicable
 24 statute of limitations, the time for the commencement of the action shall be extended 90
 25 days from the service of the notice." Cal. Code Civ. Proc. § 364(d). Plaintiffs'
 26 Complaint alleges "[a]s to Defendant, DENISE JOSEPH-BROWN, M.D., Plaintiffs
 27 timely gave notice of their intention to commence the instant action pursuant to C.C.P.
 28

1 Section 364.” (Compl. ¶ 5). Assuming Plaintiffs gave notice at the latest possible time,
2 their claim became time barred 1 year, 90 days after the discovery of the injury.

3 21. Plaintiffs’ Complaint was filed on December 17, 2013, 1 year and 91 days
4 after Plaintiffs allege the injury was discovered. Thus, Plaintiffs’ claim was filed at least
5 one day late.

6 22. Numerous courts, including the Ninth Circuit, have held that a co-defendant
7 is fraudulently joined where the claims against it are barred by the statute of limitations.
8 *See Ritchey v. Upjohn Drug Co.*, 139 F.3d 1313, 1320 (9th Cir. 1998) (holding that
9 claims against co-defendants were barred by California statute of limitations, which
10 “demonstrates beyond peradventure that they were sham defendants for purposes of
11 removal”); *see also In re Briscoe*, 448 F.3d 201, 219 (3d Cir. 2006) (“If a district court
12 can discern, as a matter of law, that a cause of action is time-barred under state law, it
13 follows that the cause fails to present even a colorable claim against the non-diverse
14 defendant.”); *Casper v. Mony Life Ins. Co. of Am.*, No. 4:05CV1942, 2005 WL 3465677,
15 *3 (E.D. Mo. Dec. 19, 2005) (“where the facts as alleged in the Complaint clearly show
16 that a claim is time-barred, that no question of fact concerning application of the statute
17 of limitations exists, a court may properly consider a statute of limitations defense in
18 determining fraudulent joinder”). As another court in this district has noted, “[w]hen the
19 statute of limitations bars a claim, the Ninth Circuit holds joinder to be fraudulent without
20 regard to motive.” *Jacobs v. Philip Morris, Inc.*, 2003 WL 23342334, *5 (C.D. Cal. Sept.
21 4, 2003) (denying remand where claims against non-diverse defendant were time-barred).

22 23. Because the claim against Dr. Joseph-Brown are time-barred based on the
23 allegations of the Complaint, she is fraudulently joined as a matter of law. Her
24 citizenship therefore does not defeat diversity of citizenship jurisdiction.

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**II. REMOVING DEFENDANTS HAVE SATISFIED THE PROCEDURAL
AND VENUE REQUIREMENTS FOR REMOVAL**

24. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon and by Removing Defendants are attached as Exhibit A to the Declaration of Joshua J. Wes.

25. Orange County, California, is located within the Central District of California, Southern Division, *see* 28 U.S.C. § 84(c)(3), and, venue for this action is proper in this Court under 28 U.S.C. § 1441(a) because the Central District of California, Southern Division, is the “district and division embracing the place where such action is pending.”

26. Service upon Ethicon, Inc. and Johnson & Johnson was completed on February 2, 2014. Therefore, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

27. The consent to removal of Dr. Joseph-Brown is not required because she is fraudulently joined. *See United Computer Sys., Inc. v. AT&T Corp.*, 298 F.3d 756, 762 (9th Cir. 2002) (holding consent requirement “does not apply to nominal, unknown or fraudulently joined parties”) (internal quotation marks omitted).

28. No previous application has been made for the relief requested herein.

29. Immediately following the filing of this Notice of Removal, written notice of the filing of this Notice will be delivered to Plaintiffs’ counsel, as required by 28 U.S.C. § 1446(d).

30. Removing Defendants will promptly file a copy of this Notice with the Clerk of Court in the Superior Court of the State of California, County of Orange, as required by 28 U.S.C. § 1446(d).

31. By removing this action to this Court, Removing Defendants do not waive any defenses, objections, or motions available under state or federal law. Removing Defendants expressly reserve the right to move for dismissal of some or all of Plaintiffs’ claims pursuant to Rule 12 of the Federal Rules of Civil Procedure.

1 WHEREFORE, Ethicon, Inc. and Johnson & Johnson give notice that the
2 matter bearing civil action number 30-2013-00693525 in the Superior Court of the State
3 of California, County of Orange, is removed to this Court pursuant to 28 U.S.C. §§ 1441
4 et seq. Removing Defendants respectfully request that this Court retain jurisdiction over
5 all further proceedings in this matter.

6
7 DATED: February 21, 2014

Tucker Ellis LLP

8
9 By: /s/ Joshua J. Wes

10 Joshua J. Wes

11 Attorneys for Defendants

12 ETHICON, INC. and JOHNSON &
13 JOHNSON
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TUCKER ELLIS LLP
Cleveland ♦ Columbus ♦ Denver ♦ Los Angeles ♦ San Francisco

CERTIFICATE OF SERVICE

I, Cynthia M. Harris, declare that I am a citizen of the United States and a resident of Los Angeles, California or employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Tucker Ellis LLP, 515 South Flower Street, Forty-Second Floor, Los Angeles, California 90071-2223.

On February 22, 2014, I served the following: **NOTICE OF REMOVAL UNDER 28 U.S.C. § 1441(B) (DIVERSITY) OF DEFENDANTS ETHICON, INC. AND JOHNSON & JOHNSON** on the interested parties in this action by:

- (X) **ELECTRONICALLY VIA ECF:** the above-entitled document to be served electronically through the United States District Court, Central District ECF website, addressed to all parties appearing on the Court's ECF service list. A copy of the "Filing Receipt" page will be maintained with the original document in our office.
- (X) **U. S. MAIL:** I placed a copy in a separate envelope, with postage fully prepaid, addressed as follows:

Bruce M. Brusavich, Esq.
Tobin D. Ellis, Esq.
AGNEW BRUSAVICH
20355 Hawthorne Boulevard
Torrance, CA 90503
Attorneys for Plaintiffs

Douglas A. Amo, Esq.
SCHMID & VOILES
333 City Blvd W, Suite 2000
Orange, CA 92868
Attorneys for Defendant Denise Joseph-Brown, M.D.

for collection and mailing on the below indicated day following the ordinary business practices at Tucker Ellis LLP. I certify I am familiar with the ordinary business practices of my place of employment with regard to collection for mailing with the United States Postal Service. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit or mailing affidavit.

- (X) I declare that I am employed in the office of the Bar of this Court at whose direction the service was made.

Executed on **February 21, 2014**, at Los Angeles, California

/s/ Cynthia M. Harris

CYNTHIA M. HARRIS

COPYUNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETI. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

Richard McLaughlin and Eve McLaughlin

DEFENDANTS (Check box if you are representing yourself ☐)Johnson & Johnson, Ethicon, Inc., Denise Joseph-Brown, M.D.,
and Does 1-40(b) County of Residence of First Listed Plaintiff Orange

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Middlesex County,
New Jersey

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are
representing yourself, provide the same information.

Bruce M. Brusavich, Esq.

Tobin D. Ellis, Esq.

AGNEW BRUSAVICH

20355 Hawthorne Boulevard, 2d Floor, Torrance, CA 90503

310-793-1400

(Attorneys for Plaintiffs)

Attorneys (Firm Name, Address and Telephone Number) If you are
representing yourself, provide the same information.

Mollie F. Benedict, Esq.

Joshua J. Wes, Esq.

TUCKER ELLIS LLP

515 S. Flower Street, 42nd Floor

Los Angeles, CA 90071

213-430-3400

(Attorneys for Defendants Ethicon, Inc. and Johnson & Johnson)

II. BASIS OF JURISDICTION (Place an X in one box only.)

☐ 1. U.S. Government
Plaintiff☐ 3. Federal Question (U.S.
Government Not a Party)☐ 2. U.S. Government
Defendant☒ 4. Diversity (Indicate Citizenship
of Parties in Item III)III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

Citizen of This State

PTF DEF
☒ 1 ☐ 1Incorporated or Principal Place
of Business in this StatePTF DEF
☐ 4 ☐ 4

Citizen of Another State

☐ 2 ☐ 2Incorporated and Principal Place
of Business in Another State☐ 5 ☒ 5Citizen or Subject of a
Foreign Country☐ 3 ☐ 3

Foreign Nation

☐ 6 ☐ 6

IV. ORIGIN (Place an X in one box only.)

☐ 1. Original
Proceeding☒ 2. Removed from
State Court☐ 3. Remanded from
Appellate Court☐ 4. Reinstated or
Reopened☐ 5. Transferred from Another
District (Specify)☐ 6. Multi-
District
LitigationV. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No☐ MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

This is a civil action between diverse parties and is removable under 28 U.S.C. Sections 1332, 1441, and 1446.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL INJURY	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 28 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	LABOR	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input checked="" type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 740 Railway Labor Act	
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 751 Family and Medical Leave Act	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

SACV14-00259 CJC (ANX)

CV-71 (11/13)

CIVIL COVER SHEET

Page 1 of 3

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input checked="" type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:	
	A PLAINTIFF?	A DEFENDANT?		
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.		
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern	
	<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. ➡	C.2. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. ↓
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the Initial division determined by Question A, B, or C above: ➡	Southern

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): /s/ Joshua J. Wes

DATE: February 20, 2014

Joshua J. Wes (SBN 238541)

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935ff(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Cormac J. Carney and the assigned Magistrate Judge is Arthur Nakazato.

The case number on all documents filed with the Court should read as follows:

SACV14-00259 CJC (ANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

February 21, 2014

Date

By Lori Wagers

Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☒ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.